SAS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.110 OF 1988

Commissioner of Income-tax ..Applicant.
V/s.

M/s.Parke Davis (India)Ltd. ..Respondent.

Mr.Ashok Kotangale for applicant.

CORAM : F.I.REBELLO AND
J.P.DEVADHAR, JJ.

DATED : 1ST AUGUST, 2007.

P.C. :-

. At the instance of the revenue, the following question was referred to us for our consideration:-

> " Whether on the facts and circumstances of the case, the Tribunal was right in law in holding that the assessee was entitled in the computation of its income for the assessment year 1977-78 to the allowance by way of deduction of the following amounts:-
>
> Rs.3,01,600/- on account of liability ertaining to the accounting year ended on 30.11.75 for the purchase of annuities for the benefit of the assessee's employees and Rs.3,23,400/- pertaining to previous year ended on 30.11.76 spent for the same purpose ? "

2. The tax incident is less than Rs.4 lakh. In the light of the the reference is returned unanswered.

3. At the instance of the assessee, the following

reference was made:-

> " Whether, on the facts and in the circumstances of the case, the Tribunal was correct in holding that the assessee was not entitled to deduction of sur-tax from its total income ? "

3. Our attention is invited to the Judgment of the Supreme Court reported in **219 I.T.R. 581 (S.C.).** Considering the ratio of the said Judgment, the reference has to be answered in favour of the revenue. In thelight of that reference is answered in the affirmative in favour of the revenue and against the assessee.

4. Reference disposed of accordingly.

(F.I.REBELL0, J.)

(J.P.DEVADHAR, J.)